

lowing Senators answering to their names:

Atlee.	Morriss.
Bailey.	Neal.
Beall.	Presler.
Boren.	Rogers.
Bowser.	Ross.
Burns.	Stafford.
Colquitt.	Stone.
Darwin.	Terrell.
Dibrell.	Tillett.
Goss.	Turney.
Gough.	Wayland.
Harrison.	Woods.
Lewis.	Yantis.
Linn of Wharton.	Yett.

Prayer by the Chaplain, Rev. F. S. Jackson.

Pending the reading of the Journal of yesterday,

On motion of Senator Bailey, the same was dispensed with.

Senator Colquitt moved that a committee of three be appointed to notify the House that the Senate had perfected its organization and was ready for business.

Carried, and

The Chair appointed Senators Colquitt, Linn of Wharton and Gough.

Senator Bowser moved that a committee of three be appointed to wait upon the Governor and notify him of the Senate's readiness to proceed to business.

Carried, and

The Chair appointed Senators Bowser, Tillett and Wood.

Senator-elect Atlee not having been present at the organization on yesterday, approached the President's stand and took the oath of office.

Senator Bowser offered the following:

Resolved, That Robert Sloan of Washington county be appointed porter for general service to the Senate.

Adopted, and

He was accordingly so appointed.

(Senator Atlee in the chair.)

On motion of Senator Boren, the Senate adjourned to 10 a. m. to-morrow.

THIRD DAY

Senate Chamber,

Austin, Tex., Thursday, Jan. 14.

Senate met pursuant to adjournment.

Lieutenant-Governor Jester in the chair.

Roll called. Quorum present, the fol-

lowing Senators answering to their names:

Atlee.	Morriss.
Bailey.	Neal.
Beall.	Presler.
Boren.	Rogers.
Bowser.	Ross.
Burns.	Stafford.
Colquitt.	Stone.
Darwin.	Terrell.
Dibrell.	Tillett.
Goss.	Turney.
Gough.	Wayland.
Harrison.	Woods.
Kerr.	Yantis.
Lewis.	Yett.

Linn of Wharton.

Absent.

Greer.

Excused.

Linn of Victoria.

Prayer by the Chaplain, Rev. F. S. Jackson.

Pending the reading of the Journal of yesterday,

On motion of Senator Harrison, the same was dispensed with.

Lieutenant - Governor Jester announced the following standing committees:

Judiciary No. 1.—Hon. Perry J. Lewis, chairman; Dibrell, Atlee, Presler, Beall, Goss, Greer, Gough, Woods, Turney, Bailey, Linn of Wharton, Yantis, Tillett, Neal, Ross, Terrell, Burns, Rogers.

Judiciary No. 2.—Hon. R. N. Stafford, chairman; Woods, Gough, Goss, Yantis, Beall, Ross, Greer, Dibrell, Atlee, Bailey, Turney, Bowser.

Finance. — Hon. Heber Stone, chairman; Wayland, Bowser, Kerr, Rogers, Boren, Beall, Colquitt, Linn of Victoria, Bailey, Yett, Greer, Morriss, Ross, Turney, Presler, Terrell.

Federal Relations. — Hon. George C. Greer, chairman; Turney, Neal, Terrell, Lewis, Ross, Harrison.

Public Lands. — Hon. D. F. Goss, chairman; Tillett, Presler, Lewis, Turney, Linn of Victoria, Rogers, Stone, Boren, Gough, Darwin, Atlee, Greer, Stafford.

Penitentiaries. — Hon. T. E. Boren, chairman; Rogers, Dibrell, Morriss, Wayland, Darwin, Yett, Kerr, Greer, Neal, Colquitt, Lewis, Tillett.

Public Debt. — Hon. John A. Wayland, chairman; Kerr, Stone, Bowser, Linn of Wharton, Morriss.

Commerce and Manufacturing. — Hon. O. P. Bowser, chairman; Yett, Kerr, Linn of Victoria, Burns, Greer, Yantis, Bailey, Wayland, Stone, Linn of Wharton.

State Asylums. — Hon. J. R. Gough,

chairman; Ross, Colquitt, Morriss, Greer, Tillett, Woods, Bowser, Yett, Wayland, Burns, Harrison.

Judicial Districts. — Hon. J. B. Dibrell, chairman; Beall, Yantis, Goss, Gough, Greer, Atlee, Terrell, Lewis, Bailey, Stafford, Tillett, Colquitt, Ross.

State Affairs. — Hon. J. A. Beall, chairman; Kerr, Neal, Morriss, Stafford, Dibrell, Colquitt, Rogers, Bowser, Woods, Stone, Wayland.

Education.—Hon. J. M. Presler, chairman; Beall, Goss, Gough, Rogers, Colquitt, Boren, Bowser, Ross, Morriss, Terrell, Linn of Wharton.

Towns and City Corporations.—Hon. W. J. Bailey, chairman; Linn of Wharton, Bowser, Atlee, Kerr, Burns, Yett, Stone, Colquitt, Yantis.

Public Buildings and Grounds. — Hon. W. D. Yett, chairman; Gough, Goss, Bowser, Rogers.

Insurance, Statistics and History.—Hon. E. D. Linn, chairman; Bowser, Greer, Turney, Neal, Atlee, Harrison.

Enrolled Bills.—Hon. B. F. Rogers, chairman; Neal, Yett, Ross, Greer.

Treasury and Comptroller's Office.—Hon. Geo. D. Neal, chairman; Stafford, Darwin, Boren, Ross, Terrell, Wayland.

Privileges and Election.—Hon. J. E. Yantis, chairman; Turney, Tillett, Dibrell, Stafford, Gough, Terrell, Darwin.

Engrossing.—Hon. John R. Gough, chairman; Boren, Dibrell.

Rules.—Hon. J. A. Beall, chairman; Gough, Lewis, Goss, Yantis.

Private Land Claims.—Hon. John E. Linn, chairman; Stafford, Presler, Kerr, Woods.

Public Health.—Hon. S. J. Morriss, chairman; Yett, Woods, Darwin.

Constitutional Amendments. — Hon. E. A. Atlee, chairman; Woods, Greer, Yantis, Gough, Goss, Dibrell, Burns, Ross, Neal.

Counties and County Boundaries.—Hon. J. D. Woods, chairman; Beall, Boren, Linn of Victoria, Colquitt, Ross, Terrell, Presler, Kerr, Linn of Wharton, Harrison, Yantis.

Frontier Protection.—Hon. H. A. Tillett, chairman; Burns, Goss, Turney, Atlee, Presler, Kerr, Dibrell, Harrison.

Claims and Accounts.—Hon. E. D. Linn, chairman; Kerr, Boren, Burns, Harrison.

Stock and Stock Raising.—Hon. W. W. Turney, chairman; Tillett, Goss, Atlee, Wayland, Kerr, Rogers.

Contingent Expenses. — Hon. A. B. Kerr, chairman; Boren, Rogers, Wayland, Morriss.

General Land Office. — Hon. R. L. Ross, chairman; Yett, Morriss, Bailey, Boren, Yantis, Stone, Neal, Goss.

Mining and Irrigation.—Hon. W. W. Turney, chairman; Tillett, Burns, Greer, Bowser, Atlee, Gough, Yantis.

Military Affairs.—Hon. C. V. Terrell, chairman; Beall, Presler, Turney, Bailey, Yett.

Internal Improvements.—Hon. O. B. Colquitt, chairman; Neal, Bailey, Yantis, Boren, Presler, Wayland, Rogers, Bowser, Burns, Morriss.

Agricultural Affairs.—Hon. B. F. Rogers, chairman; Wayland, Yantis, Stone, Darwin, Morriss, Harrison.

The Chair announced the following appointments:

Postmaster of the Senate—T. H. Napier of Wood county.

Pages — Wells Turner of Nueces county, Vaughan Bell of Wichita county, Richard Spratt of Grayson county, Edgar Ryan of Caldwell county, and Ed Morrison of Travis county.

COMMITTEE REPORTS.

Senator Colquitt reported that the committee appointed to notify the House of the perfected organization of the Senate and its readiness to proceed to business had performed its duty.

Senator Bowser reported that the committee appointed to notify the Governor of the Senate's readiness to proceed to business had duly performed same.

HOUSE MESSAGE.

House of Representatives,
Austin, Texas, Jan. 13, 1897.

Hon. Geo. T. Jester, Lieutenant Governor of Texas:

We are directed by the House of Representatives to inform the Senate that the House has perfected its organization by the election of the following named officers:

L. T. Dashiell, Speaker.

Lee J. Rountree, Chief Clerk.

J. S. Boggs, Sergeant-at-Arms.

W. H. Taylor, Assistant Sergeant-at-Arms.

J. W. Sellars, Reading Clerk.

T. E. Sewall, Assistant Reading Clerk.

Marshall Burney, Journal Clerk.

J. L. Robinson, Assistant Journal Clerk.

R. T. Duff, Calendar Clerk.

J. K. Salter, Engrossing Clerk.

Robert S. Rich, Enrolling Clerk.
J. R. Dunlap, Doorkeeper.
S. W. Farrow, Assistant Doorkeeper.
Mrs. S. M. Franklin, Postmaster.
Rev. J. A. Jackson, Chaplain.

CARPENTER, Chairman,
WARD,
HOLLAND.

BILLS AND RESOLUTIONS.

By Senator Lewis:

Senate bill No. 1, a bill to be entitled "An act to prescribe and define the liability of persons, receivers or corporations operating railroads or street railways, for injuries to their servants and employes, and to prohibit contracts between employer and employe, based upon the contingency of the injury or death of the employe, limiting the liability of the employer for damages."

Read first time and referred to Judiciary Committee No. 1.

By Senator Atlee:

Senate bill No. 2, a bill to be entitled "An act to amend articles 5139 and 5152 of the Revised Civil Statutes of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, relating to the assessment and collection of taxes on lands in unorganized counties belonging to non-residents."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Wayland:

Senate bill No. 3, a bill to be entitled "An act to amend title 14 of the Code of Criminal Procedure of the State of Texas, by creating and adding thereto articles 1068a, 1068b, 1068c, 1068d, 1068e, 1068f, 1068g, 1068h, 1068i, 1068j, 1068k, 1068l, 1068m, 1068n, and 1068o, in relation to the apprehension, identification and conviction of all unknown persons who may be guilty of homicide, and in relation to prescribing a method by which all the circumstances and facts that might lead to the identification and capture of such unknown persons shall be reported, preserved and filed in the office of the Adjutant General of Texas, as a secret archive of that office."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Colquitt:

Senate bill No. 4, a bill to be entitled "An act to amend title 43 of the Revised Civil statutes of 1895, relating to express companies, by adding thereto article 2431a, requiring express com-

panies to establish and maintain general offices in this State."

Read first time and referred to Committee on Internal Improvements.

By Senator Woods:

Senate bill No. 5, a bill to be entitled "An act to amend articles 4978, 4990, 4991, 4992 and 4993, title CII, chapter 5, of the Revised Statutes of the State of Texas, prescribing a mode of preventing certain stock from running at large."

Read first time and referred to Committee on Agricultural Affairs.

By Senator Lewis:

Senate bill No. 6, a bill to be entitled "An act to prescribe the time when suits for personal injuries, and for injuries resulting in death, shall be instituted; and to fix the period of limitation in such actions."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Lewis:

Senate bill No. 7, a bill to be entitled "An act to enable cities, towns and villages of this State to pay, provide for the payment, or revive indebtedness barred by the statute of limitation."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Lewis:

Senate bill No. 8, a bill to be entitled "An act to amend article 2526 of the Revised Civil Statutes of Texas, relating to juries in cases of forcible entry and detainer."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Lewis:

Senate bill No. 9, a bill to be entitled "An act to provide for and regulate suits for taxes by counties, cities, towns, schools districts and school corporations."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Colquitt:

Senate bill No. 10, a bill to be entitled "An act to punish certain officers for a failure in duty and for entering into agreements whereby the laws of the State may be nullified."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Dibrell:

Senate joint resolution No. 1, providing for a convention to frame a Constitution for the State of Texas.

Read first time and referred to Committee on Constitutional Amendments.

By Senator Stafford:

Resolved, That all bills introduced in the Senate be numbered consecutively as they are read by the Secretary at the desk.

Adopted.

By Senator Lewis:

Resolved, That Garvie Harrison of Bell county be selected as one of the pages of the Senate.

Adopted, and he was accordingly so appointed.

Call concluded.

MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor, read in full, and, on motion of Senator Woods, ordered printed in the Journal:

EXECUTIVE OFFICE,

Austin, Texas, January 14, 1897.

To the Senate and House of Representatives:

The Constitution directs that at the commencement of each legislative session the Executive shall by message give to the Legislature information of the condition of the State, and shall recommend such legislation as may be deemed expedient. In so far as it has been affected by the operations of the State government the past two years, the condition of the State exhibits substantial and marked improvement.

CONDITION OF THE STATE.

Laws Enacted.

The new laws have operated successfully and beneficially; immigration has been encouraged, and the population has materially increased; while taxable values have declined in the general national depression it has not been to such extent as in other States; high character as a field for the safe investment of capital has been maintained and strengthened; the laws have been enforced with diligence and energy; the educational institutions have prospered and enlarged; all benevolent, charitable, and penal institutions have grown in usefulness; public expenditures have been greatly reduced; every department of the government has been conducted with ability and economy; and with a moderate tax rate an efficient government has been maintained and a previous indebtedness of \$1,300,000 in general revenue and the school

fund, due to causes frequently stated, has been discharged and cash payments resumed and continued without interruption. Among the laws enacted during the past two years which have substantially benefited the public, the statute of limitations was made applicable to married women, and land titles quieted; contested elections were regulated; the laws were revised and codified; occupation taxes were made uniform; primary elections were legalized and regulated; the colored people were given control of their schools; ad valorem taxation was equalized; railway land titles were validated; connecting lines of common carriers were made responsible for freight losses; the Confederate Home was made a permanent State institution, supported by taxation; the strongest anti-trust law in the Union was passed; the interests of labor were guarded by an arbitration act; and extravagant and unconscionable fees of office were largely reduced. Though the act appears to need amendment in order to be more effectually enforced, the protective features of the fish and oyster law have proved a decided benefit along the entire coast. Oysters have been more abundant, and there have been more fish in the bays since October 1st, when the reserved bays were opened, than at any time for two years. The act regulating the collection of delinquent taxes, compelling unwilling citizens to bear their just share of the burden of government, has done much toward correcting existing injustice. In 1894 the total State and school delinquent tax collected was \$29,475.27, while in 1895 and 1896, under this act, it was \$45,433.59 and \$78,966.46, respectively. The delinquent county taxes collected have increased in the same proportion. Time serving complaints against this law are answered by the suggestion that experience demonstrates that its penalties are necessary to enforce collection and may be avoided by prompt payment of taxes. When it is recalled that enough taxes are now delinquent to defray the general expenses for the year, the good effected toward equalizing the burdens of taxation will be properly appreciated. The change in the school land law, reducing the price of pasture lands to \$1 per acre, leases to 3 cents per acre, and interest to 3 per cent, is fully justified by the operation of the present law. Previous to this, purchasers and lessees of public lands were forfeiting their claims

and defaulting in the payment of interest in unprecedented numbers, while since then forfeitures and defaults have lessened and both sales and leases have rapidly multiplied. For the year ending August 1, 1895, the sale of school lands amounted to 209,948 acres, and leases to 1,712,301 acres. For the year ending August 1, 1896, with the new law in force, the sales amounted to 1,179,647 acres and the leases to 5,126,967 acres. Two years ago, when the last regular message was submitted to the Legislature, with no money in the treasury to the account of general revenue, there was an outstanding registered and estimated indebtedness in that fund of \$789,000. This condition of the treasury made it necessary to reduce expenses, and accordingly the reduction in public expenditures the past two years, in general statutes and the appropriation bill, was notable and far-reaching, embracing a reduction in every branch of the government except the Colored Deaf and Dumb Asylum, University, Penitentiaries, Confederate Home and Reformatory. The Comptroller reports that for the two years ending August 31, 1896, the total reduction of expenses was \$522,520.07, but as this includes part of the years 1894 and 1895 under previous laws, and omits consideration of the period from August 31, 1896, to March 1, 1897, the end of the present appropriation year, the entire reduction is not shown. The full reductions in appropriations, including legislative per diem, mileage and contingent expenses, was \$664,231.71, and the deficiencies only \$18,049.60, making the actual reduction measured by appropriations of the preceding term \$646,182.11 for the two years.

Matters of Administration.

The condition of the public schools and other educational institutions shows that they have made material and gratifying progress. During the term a deficit of \$547,690.50 in the public free school fund has been discharged, and school vouchers, which were being discounted, are now promptly paid on presentation. The scholastic population has increased from 693,752 in 1894 to 751,335 for the present year, yet the schools were conducted for four and a half months the past year on an apportionment of \$3.50 per capita, the same as the preceding year, and an apportionment of \$4 per capita has been declared for the present year, which should maintain the schools for five and a half

months. Under an act of the Legislature of 1856, part of the school fund was loaned, prior to the war, to the Houston and Texas Central Railway Company and the Galveston, Harrisburg and San Antonio Railway Company. For many years a controversy has existed between these companies and the State as to the amount due on these loans, the State claiming an indebtedness of more than \$1,000,000 and the companies insisting that it has been fully satisfied by payment in State warrants issued during the war. Final default in payment was made by the companies in 1894, and in December of that year suits were begun by me as Attorney General to recover the money. These suits have been successfully prosecuted to judgment by the present Attorney General in favor of the State in the District Court for \$1,200,000, from which appeals have been taken and are yet undetermined in the Court of Civil Appeals. Should the State finally succeed in the suits the judgments will undoubtedly be paid, as there is a lien on the railway property amply sufficient to secure payment, and the money collected will be a part of the school fund. Notwithstanding the general financial depression the attendance of students at the University and the medical branch has increased, and at the Agricultural and Mechanical College and the Sam Houston Normal Institute has been maintained. The new lease law will probably increase the income of the University from leases \$10,000 annually for use in current expenses. The attendance at the Blind Institute and the white and colored Deaf and Dumb Institutes has grown appreciably. Of the educational institutions only the Prairie View Normal School shows a decrease in the number of students, due, no doubt, to the stringency of the times. The conduct of the State toward others entitled to her generosity and care is worthy of her traditions and her history. Many more disabled ex-Confederate soldiers have been provided for than heretofore; and the number of orphan children cared for exceeds that of any previous time. The capacity of the several lunatic asylums has been exhausted, and the number of inmates accommodated was greater than any preceding term. The penal institutions are also in a most satisfactory condition. The number of persons confined in the House of Correction and Reformatory was reduced one-half the past year, and would seem to indicate a

marked decrease in crimes committed by persons under 16 years of age and punishable by imprisonment there. There was a net increase of 296 convicts in the penitentiaries for the two years, the number on hand being 4421. This, with a decided increase in the number of indictments and convictions for felonies, indicates increase in crimes of that grade. Notwithstanding this increase in prison population, the reduction of convict wages, due to monetary depression, and the heavy loss of cane by the extreme cold weather in 1895, the penitentiaries under the present splendid management have been more than self-sustaining. The appropriation from the general

revenue for their support was not used, the total receipts from labor for the two years increased \$83,000, the cost per capita for maintaining the forces decreased, and on October 31, 1896, there was a cash balance on hand of \$95,301.24. As the present Financial Agent received \$64,798.29 from his predecessor, this shows a clear profit exceeding \$30,000 for the two years, despite the adverse conditions mentioned. How these great institutions of the State have been managed the past two years may be seen from the following comparison of expenditures with the preceding two years:

	1893.	1894.	Total.	1895.	1896.	Total.	Increase or decrease.
State Lunatic Asylum	\$151,468 97	\$143,986 06	\$295,455 03	\$124,734 19	\$120,235 73	\$244,969 92	\$50,485 11
North Texas Lunatic Asylum	143,002 16	162,330 26	305,332 42	134,850 71	137,696 59	272,547 30	32,785 12
Southwest Texas Lunatic Asylum	54,866 59	55,848 43	110,715 02	56,962 89	47,640 56	104,603 45	6,111 57
Blind Asylum	43,035 76	45,897 84	88,933 60	43,483 63	45,389 06	88,872 69	60 91
Deaf and Dumb Asylum	41,928 28	40,351 20	82,279 48	48,675 29	48,965 90	97,641 19	*15,361 71
Colored Deaf and Dumb Asylum	16,712 18	18,320 89	35,033 07	16,633 55	16,872 18	33,505 73	1,527 34
Orphans' Home	17,759 53	27,383 40	45,142 93	20,093 26	24,815 18	44,908 44	234 49
Sam Houston Normal Institute	21,043 95	36,267 60	57,311 55	29,864 70	23,852 57	53,717 27	3,594 28
Prairie View Normal Institute	13,305 27	28,189 27	41,494 54	16,052 90	10,700 97	26,753 87	14,740 67
A. and M. College	27,174 00	59,436 67	86,610 67	28,029 04	30,205 02	58,234 06	28,376 61
University	37,078 03	61,779 98	98,858 01	62,692 92	67,924 28	130,617 20	*31,759 10
House of Correction and Reformatory	28,303 30	30,206 60	58,509 90	33,910 11	35,659 31	69,569 42	*11,059 52
Penitentiaries	44,000 00	45,795 90	99,795 90	59,299 37	58,376 50	117,665 87	*17,869 97
Confederate Home				14,307 76	36,527 62	50,835 38	

Total expenditures for years 1893 and 1894..... \$1,403,472 12
 Total expenditures for years 1895 and 1896..... 1,399,441 79

* Increase.

The foregoing table, with other data shows that for the years 1893 and 1894 there was maintained an average number of inmates of educational, benevolent, charitable and penal institutions of 7,712 at a cost from general revenue of \$1,403,472.12, or \$90.99 per capita per annum. For the years 1895 and 1896 there was maintained an average number of 8,864 inmates at a cost of \$1,399,441.79, or \$78.99 per capita per annum, without injustice to individuals or detriment to the public service. During the past two years the Railroad Commission has fully sustained the wisdom of its creation. In that time it has established or amended tariffs on practically every species of freight except lumber. The general merchandise tariff was put into operation August 6, 1895, and required great industry and labor. Railway bonds on

completed road aggregating \$1,609,000 were examined and registered under the act to prevent fraudulent and fictitious issues of such securities. More than 3000 miles of railroad have been inspected and valued as an honest basis for the issue of bonds. Reduction in rates was made among other things on cotton, general merchandise, agricultural implements, farm wagons, bagging and ties, machinery, engines and boilers, cotton gins, feeders and condensers, cotton presses, beams, columns and girders, stoves and stoveware, woodenware, furniture, iron castings, horse and mule shoes, and packing house goods. The total amount saved to the people for the two years by the reduction of rates, as estimated by the Commission, is \$2,231,000. The work of the Board of Pardon Advisers, difficult and indispensable, has

been performed with exceptional efficiency and fidelity. Several thousand applications for pardon have been considered, and 291 were granted for felonies from the penitentiaries. From the Reformatory 106 pardons were granted, 66 of which were because the applicants were over 16 years of age and therefore illegally sent to that institution. Performing his duties with ability and commendable energy, the State Revenue Agent has contributed materially to the increased revenue collected during the term from the traffic in beer and whiskey and in the enforcement of laws relating to other taxable occupations. The Rangers and Volunteer Guard, under the direction of the Adjutant General, have rendered gallant and conspicuous service in the suppression of crime and the maintenance of law and order. Largely through the clear foresight and wise conduct of the State Health Officer, we have been entirely free from dangerous epidemics. An account of the public moneys received and paid out by the Executive from funds subject to his order, vouchers for which are filed with the Comptroller, is attached to this message, and an examination will show that the amount is less than for many years. The heads of all departments and State institutions have discharged their duties faithfully and with distinguished ability, and your attention is particularly invited to their reports, which contain valuable information and suggestions. In all departments and in every grade of the service a high order of official integrity has been exhibited. It is not extravagant to declare, in summing up the condition of the State, that in fidelity of the officials, in the liberality and wisdom of her laws, in her great charities and reformatories, in her splendid institutions of learning, in her commercial and industrial progress, in the economy, cleanliness and strength of her government, and in the intelligence and character of her people, Texas may invite generous comparison and rivalry with her sisters of the Republic.

LEGISLATION RECOMMENDED.

Platform Demands:

In the consideration of legislation at this session, easily first is that to which the Executive and a majority of the legislators are publicly pledged. This legislation needs neither argument nor extended statement to support it. It has been fully discussed

and approved by the people, the Legislature is solemnly obligated to enact it, and a failure to do so would justly subject it to severe censure and condemnation. Broadly stated, this Legislature is bound by party platform (1) to continue economy and reduce expenses wherever practicable, (2) liberally support the free schools, (3) liberally maintain the higher educational institutions and the Confederate Home, (4) supply necessary asylum accommodations for the insane, (5) require express companies to maintain general offices in the State, (6) set apart 50,000 acres of land for a colored university, (7) reapportion and reduce the judicial districts, (8) facilitate the sale of the public school lands, (9) provide for the safe investment of the school fund now idle in the Treasury, (10) protect laborers in the prompt payment of wages, and fix liens to secure them, (11) amend and broaden the fellow-servant law, (12) adopt measures to abolish gradually the convict lease system, (13) pass a general official fee bill, and (14) reform the criminal laws. The first four of these subjects, so far as may be necessary, will be considered in a more appropriate place in this message, and the fifth needs no further notice. The Constitution provides that the Legislature shall when deemed practicable establish and provide for the maintenance of a college or branch university for the instruction of the colored youths of the State, but that no tax shall be levied and no money appropriated out of the general revenue for this purpose. Obviously the only constitutional method of establishing such college or branch university is to segregate and sell a portion of the unappropriated public land. There are now 4,250,000 acres of such land, and the appropriation should immediately be made, giving priority to this purpose, before it is too late from the exhaustion of the domain. These are now 54 district judges and two criminal district judges, with salaries amounting to \$140,000 annually. Some of these judges are overworked and others are idle half the year, the length of the terms varying from twenty-eight to forty weeks in the year. The average term will not probably exceed thirty-two weeks out of fifty-two. If each of the districts should be given 100,000 people, which some of them now contain, the number could be reduced to thirty. Having regard for other matters which materially affect the question, such as the extent of territory in the districts, the number of district

judges can be safely reduced to forty. This legislation is demanded both by the necessity of equalizing the labor of the judges and cutting off unnecessary expense to the people, and no consideration of incumbents or imaginary geographical difficulties should be allowed to influence or defeat it. Associated with this subject is the fact that while under the law counties can not be organized except they contain not less than 150 resident voters, at the late election some counties cast less than 50 votes, and this fairly represents the number of voters in those counties. Continued organization of such counties is unjustly expensive to the residents and land owners for current expenses, and has frequently resulted in the erection of costly and extravagant court houses and jails. It is a hardship upon the judges, and unnecessarily expensive to the State to maintain judicial district machinery there, for it is impracticable to secure grand and petit juries for the transaction of the business of the district court, and no useful purpose whatever is subserved. When the number of voters in counties falls below 50, the organization should be suspended, with proper provision for the levy of a tax by the Comptroller to discharge their outstanding indebtedness, and attaching them to other counties for judicial purposes until organization is resumed. Besides discontinuing the expenses alluded to, the time of judicial officers wasted there in vain efforts to transact business may be given to other counties and thus assist in re-apportioning and reducing the judicial districts. The platform declares in effect that the public school lands should be sold to actual settlers so as to promote the settlement of the country and its speedy development; and to accomplish this, as well as that the school fund may be more speedily increased, such legislation should be enacted as will facilitate the sale of such lands rather than perpetuate the lease system. The price of agricultural lands is now \$2 per acre, pasture lands \$1 per acre, timbered lands \$5 per acre, and the rate of interest 3 per cent. The only practicable way to facilitate and increase the sale of the lands is to reduce the price or the rate of interest. The price of pasture lands and the rate of interest were reduced in 1895, which should be sufficient, and the price of timbered lands seems low enough. Besides, reference is made in the platform declaration to sales to

those desiring homes and is primarily applicable to agricultural lands. The State should cease to be a land owner as soon as practicable. If the price of these lands should be fixed at \$1 or \$1.50 per acre it will promote the development of the western part of the State, put the lands on the tax roll and invest the fund for the benefit of the schools, benefits that will outweigh any probable increase in the value of the lands which will result from holding them indefinitely; but holders should not be permitted to forfeit purchases already made and repurchase at the reduced price. One of the sources of the available school fund, with which the public schools are maintained, is the interest derived from the investment of the permanent fund in county bonds. In October, 1895, when this subject was called to the attention of the Legislature, then in special session, there was on hand in the treasury uninvested money belonging to the permanent school fund amounting to \$238,000. In April, 1896, when the matter was again referred to publicly, the amount had grown to \$422,000. Notwithstanding \$160,000 of this fund has been transferred to the available fund, on January 7th there was in the treasury uninvested \$213,584. This accumulation results from two causes mainly, (1) the increased foreign demand for Texas municipal securities carrying them to a premium, by which the State Board of Education, limited to the purchase of bonds which bear at least 5 per cent interest, is practically driven out of the market, and (2) almost a concert of action of counties in funding their bonds now held by the State bearing 6 per cent into 5 per cent bonds, and frequently disposing of the new bonds to other purchasers. The fund under existing law can only be invested in bonds of the United States, the State of Texas and counties in this State, and since the two former are at a heavy premium investment is practically limited to the last. We are charged to enact such careful and guarded laws as may be necessary for the State Board of Education to compete with private investors in the purchase of county bonds, so that this money may not remain idle in the treasury, and to meet this requirement it is essential that the minimum rate of interest the bonds shall bear be reduced or the limitation on the amount the Board may pay for bonds be modified. The beneficiaries of the act creating liens in favor of laborers, mechanics and material

men should be enlarged so as to embrace any clerk, accountant, bookkeeper, artisan, craftsman, factory operative, mill operative, servant, mechanic, quarryman and common laborer. Often beneficiaries of such liens are denied the remedy for collecting their claims because they are too poor to employ counsel, and the claims are not large enough to justify taking them on contingent fees. When they are compelled to resort to suit to enforce payment of their wages an attorney's fee of \$10, when the account is less than \$100, and 10 per cent when above that sum, should be included in the judgment. The venue of suits for wages of labor and enforcement of these liens should be fixed in the county and precinct where the services are performed or where the debtor resides, at the option of the plaintiff. As the law now is, laboring men must often abandon and lose their claims because they are unable to collect them through courts in distant counties in consequence of the expense of attending them. More than half a century ago, in South Carolina, a railroad company, in order to relieve itself of responsibility for damages, suggested the doctrine of fellow-servants and it was adopted by the court. It has since become the recognized law of the land except where modified by legislation. Broadly put, it means that a person engaged in service can not recover damages of his employer for personal injuries, nor his family if death ensues, if the injury resulted from the negligence of a fellow-servant. Believed to be cruel and merciless by many, it has been vigorously attacked in this State, and though the court felt bound to follow previous decisions, Chief Justice Gaines thus thoroughly exposed the injustice of the rule in an opinion delivered in 1888:

"We confess that the reasoning upon which the rule has been adopted is not very satisfactory. It is said that when the servant accepts the employment of his master he impliedly assumes the risk of the negligence of his fellow-servants. The argument seems illogical. It amounts to saying that the law is that he can not recover because he takes the risk, and that he takes the risk because the law is so. By a parity of reasoning we might assume that he takes the risk of his master's own personal negligence, and that therefore the master would not be liable to a servant for such negligence. A more reasonable ground is that of public policy. It is

frequently asserted as the true basis of the doctrine, and is founded upon the theory that it is calculated to make servants in a common employment watchful of each other, and thereby to promote carefulness in the performance of their duties. If this is to be taken as the true ground the rule should be confined to those servants whose duties bring them into such juxtaposition that one would be enabled to observe the negligence of his fellows. But however unsatisfactory may be the reasons assigned for the doctrine, it is too well established, and its limits, in so far as the question before us is concerned, too well defined to permit us to entrench upon it. We feel constrained, both by the former opinions of this court and by the great weight of authority elsewhere, to hold that the employes who were operating the train which caused the injury in this case were the fellow-servants of the plaintiff. If we could hold it an open question our ruling might be otherwise, but we consider the doctrine too firmly established to be changed except by the action of the Legislature."

Following his suggestion, that if the doctrine be upheld, it should at least be confined to those servants whose duties bring them into such relationship that one would be enabled to observe the negligence of his fellows, the Legislature in 1891 and 1893 sought to relieve it of its severity. Under the construction placed upon the statute by the Supreme Court, it has failed in its larger purpose, and we are obligated to enact such legislation as will attain this object and "protect employes of railway and other corporations in their lives and against injury." It is not clear from the opinion of the court in the Warner case, but it seems the act of 1893, now in force and incorporated in the Revised Statutes, would be improved and would authorize the recovery of damages for negligence in cases now denied if the legislative interpretation of the term grade were omitted and the matter remitted to the courts. But the settlement of the question should not be left to a statutory definition of fellow servants. The real purpose of the acts of the Legislature was to overturn the doctrine of fellow servants. It is illogical; it is not grounded in any wholesome public policy; and under it thousands of employes and their families have been denied redress for personal injuries or death resulting from corporate negligence. The true remedy, the one which will afford the relief de-

manded, is to denounce and abrogate the doctrine by express law. It will also do justice to railway employes to compel railroad companies to provide automatic car couplers on all trains, as is done by the act of Congress, approved March 2, 1893, applicable to interstate commerce, and guard against accidents and injuries to brakemen in switching by suitable appliances. In the adoption of measures for the gradual abolition of the convict lease system, difficulties will appear. In the management of the penitentiaries the system of labor authorized under existing law is the State account system, where employment for convicts is furnished directly by the State, and the contract system, where the convicts are hired to individuals or corporations. With the exception of a limited number of convicts employed on railroads and under other contracts, the system in operation is the State account system, which embraces employment within the walls in various industries and outside on State farms. Pledged to abolish the cruel and inhuman lease system, and labor being necessary to the health and morals of the convicts, as well as to make them self-sustaining, the inquiry goes to the best method of employment on State account. The prison population is rapidly increasing, the increase exceeding 1200 since 1890, and to work them within the walls will necessitate making additional room for the convicts and the establishment of new industries at enormous cost for the utilization of their labor. If this be done it will inevitably result in forcing further competition of free labor with convict labor. If they be worked on farms owned or leased by the State the labor is more remunerative, competition with free labor is minimized, and the cruelties of the lease system greatly abridged. That the system is feasible and has operated satisfactorily is shown by the fact that each year since the Harlem State farm was purchased it has yielded a heavy net profit, that for the years 1895 and 1896 being \$101,000. Except for this farm and those leased by the State, the penitentiary system would not support itself. They keep the hands of the penitentiaries out of the State treasury. Recognizing these results and seeking to avoid increased general expenses under present financial conditions, an amendment to the Constitution was proposed at the late election authorizing the loan of a portion of the school fund to purchase farm lands for this

purpose, but the amendment was defeated. As the condition of the treasury, in view of other demands, will not admit of a sufficient appropriation to purchase suitable farms, reasonable provision should be made out of the general revenue for leasing such as may be imperatively needed for the next two years, to be repaid out of the earnings of the farms. Relating to the general subject of the management of convicts, attention is called to the practice of district judges in issuing bench warrants for convicts, under which they are frequently taken from the penitentiaries great distances at the expense of the State, tried, and sentenced usually under pleas of guilty to a term of years running concurrently with that being served, carrying the usual fees of conviction, and promoting no possible good. The issuing of these warrants should be expressly prohibited in all ordinary felony cases except as the term of a convict is about to expire. Not only is a general official fee bill expressly demanded, but the leading provisions are prescribed by reference to the regular message to the Twenty-fourth Legislature, and the law regulating the compensation of county treasurers. Thus outlined, the fees of district attorneys should be limited to \$2500 per annum and those of county and precinct officers to \$2000 net, with proper provision in addition for necessary deputies in the case of county officers. No plainer or more imperative duty confronts the Legislature than the reformation of the criminal laws in the particulars to which the members are pledged. These are (1) an amendment to the Code of Criminal Procedure authorizing the appellate court to presume that all matters of venue were proven on the trial, that the accused pleaded to the indictment, and that the jury were sworn, unless such questions were in issue in the trial court and were there acted upon before appeal; (2) an amendment to article 723, Code of Criminal Procedure, to the effect that the appellate court shall not be required to reverse a judgment unless a failure of the trial court to observe the requirements of that article probably injured the defendant and deprived him of a fair trial; (3) correction of the evil of professional jury service by limiting the number of exemptions and otherwise, and (4) the equalization of peremptory challenges in all cases. Article 904 of the Code of Criminal Procedure should be amended so as to conform to article

723 as amended. Reasons for this legislation, though abundant and sounding in public welfare, need not be further stated or elaborated here. It is sufficient that after full argument these laws are demanded by the people, and as their representatives you should reflect their will.

Other Legislation:

There is other important and needful legislation which should be enacted at this session with reference to both criminal and civil matters. The Constitution and laws wisely provide that when debts are created by counties and other municipalities an annual tax shall be levied and collected to pay the interest and create a sinking fund for their liquidation. It is essential, and it is the purpose of the law, that this money shall be scrupulously devoted to these objects, so that the faith of the municipalities will be kept, the people protected against double payment and the bonds held by the State and other investors be redeemed at maturity, but in some counties and cities the commissioners' courts and city councils wrongfully divert these funds to the payment of salaries and other general indebtedness. A penal statute should be passed adequately punishing members of such courts and councils for such diversions, and county and city treasurers for honoring warrants drawn for such purposes. The State can not suffer her municipal securities to become tainted with dishonor, and the safeguard suggested will judiciously supplement existing laws. For more than a quarter of a century it was the law of this State, announced repeatedly by the highest courts, that the testimony of a deceased witness at a former trial of a criminal charge is admissible in evidence at a subsequent trial of the same case and may be proven by another person who heard the testimony. This salutary doctrine, thoroughly accepted and necessary to the suppression of crime, was recently denied by a majority of the judges of the Court of Criminal Appeals upon grounds heretofore urged without success. In the case of Cline, they held that examining trial evidence taken before a magistrate, where the defendant was present and had an opportunity to cross-examine the witness, is not a deposition in contemplation of article 814 of the Code of Criminal Procedure, which allows the deposition to be read in evidence when the witness has

since died or removed from or is out of the State and for other reasons, and that if it were a deposition within the meaning of that article it could not be read because the law is void as contravening section 10 of the Bill of Rights declaring that an accused shall be confronted with the witnesses against him. In substance and effect, it is held that article 814 is unconstitutional and void. Judge Henderson in his dissenting opinion says:

"It has become the settled law of the land, and to uproot or destroy it, it occurs to me, will be fraught with grievous results. This construction of the Constitution, in connection with the rules of evidence, has the sanction of great lawyers and of great jurists, both in England and in this country, whose decisions form an unbroken current in support of the rule we have adopted. It has been found efficacious in the past, enabling courts to preserve and perpetuate testimony against great criminals and bring them to justice. It is comparatively easy recently, after an offense has been committed, to bring the witnesses together, and on a preliminary hearing procure their testimony and reduce it to writing; and in such case the witness has confronted the defendant, and he has had the privilege of a cross-examination upon all the points of the witness' testimony; and to hold that after the witness has so testified, if, on the next day, he should die, and the State should not be permitted to use his evidence, taken under all of the formalities and sanctity of the law, would be to authorize in many cases the escape from punishment of persons guilty of crime. It would be resting the administration of the law upon a very brittle thread, and it would be an invitation to criminals themselves to dispose of the testimony against them. There is too much at stake in the conservation of life and property to deal lightly with this subject. If the contrary rule shall prevail, and it shall become the law of this State that examining trial evidence of a deceased witness, or parol evidence given by a witness on a former trial of the case, said witness having since died, can not be used on a subsequent trial against a defendant, it will not only revolutionize our criminal jurisprudence, but it will be letting down the barriers in favor of criminals, when our code requires our laws to be liberally construed, in order to suppress crime and bring offenders to justice. If it was important in the early days to preserve the

character of evidence, it is equally as important now."

This is not exaggeration of the effect of this decision. It seriously impairs the right of the State to perpetuate testimony. It lays a dangerous premium upon absconding witnesses and the wicked destruction of testimony. Wide reaching and revolutionary, it affects vitally the administration of public justice, and since it can not be remedied by legislation its operation should be promptly arrested by an amendment of the Constitution. For reasons heretofore stated, it is recommended that provision be made to render effective the constitutional prohibition against railway consolidation, and that the practice by railway companies of issuing free passes, except to their officers and employes, be forbidden. The recommendation of the Commissioner of the General Land Office that the titles of bona fide purchasers of lands under the 22nd section of the Act of 1887 and amendments, now in good standing, be validated is approved and indorsed. The Live Stock Sanitary Commission, which has rendered most valuable service to the stock interests of the State, recommends in its report some changes in the law creating the Commission. It is particularly necessary that the law be amended so as to remove any doubt that the Commission may establish quarantine lines from November 1 to February 1 instead of May 15, and that the Commission be given sufficient funds to enforce the regulations. Mob violence, involving defiance of public authority and possible innocence of the victim is indefensible in a government of order and written laws, however revolting the crime sought to be avenged. While in the end much must be left to a thoughtful citizenship, laws should be passed requiring the removal from office of any sheriff or constable who permits the execution of any person by a mob in his county or precinct, and any county in which such shall occur and in which any of its citizens shall participate should be made liable to the State in the sum of \$10,000, to be devoted to permanent improvement of her benevolent and charitable institutions. For obvious reasons the venue of proceedings in such cases should be fixed at the seat of government, and they should be conducted by the Attorney General or under his authority. Life insurance companies, principally chartered by and domiciled in the State of New York, have for years

done a large business in this State. The excess of premiums over losses paid these companies by the people of Texas for the year 1895 was \$2,471,192. The premiums which our people paid three New York companies for the past ten years amounted to \$18,644,124.85, and the policies which they paid aggregated only \$4,947,569.51. The excess in premiums, the sum taken out of the State in that time, was \$13,696,555.34, less inappreciable commissions paid the agents, and is greater than the total taxable values for 1896, of either of the great counties of Bell or Collin. This drain might be more sufferable but for the fact that the money is squandered by the officials of the companies in the most scandalous salaries, perquisites, and incidentals. The presidents of some of them receive higher salaries than the President of the United States. One of them, distinguished in rascality and driven from the presidency for unexampled venality, was afterward pensioned for life at the sum of \$37,500 annually by his accomplices on the directory. It is not surprising when this and other kindred matters are considered that the substance of the State is being drawn to the East, and it is the duty of the Legislature to adopt measures to arrest it. The State of New York, where these companies were organized, forbids the investment in any other State of more than one-half of the annual premium receipts of the companies, which indirectly requires the investment of one-half of the receipts in that State. Legislation requiring these companies to invest annually a reasonable percentage of the premiums received from this State in property here is not only manifestly reasonable and just but dictated by sound public policy. The excess of premiums over losses sent out of the State since 1886 by all life and fire insurance companies which have done business here will probably reach \$25,000,000, and accounts in part for the distress here and the congestion of money and the aggregation of wealth in the metropolis. It is time that the resources of the State should be devoted to her own growth and progress, and the adoption of the policy indicated will strongly tend to keep capital here and build upon it. As these companies pay practically no ad valorem taxes, the tax of one-half per cent on the gross premium receipts of fire, marine, and accident insurance companies should be increased to 1 per cent, and the tax of $1\frac{1}{4}$ per cent on such gross premium receipts of life insur-

ance companies should be increased to 2 per cent. Few people not directly interested in agriculture appear to understand and appreciate the evil produced by the plant known as Johnson grass. It has caused widespread injury already, and unless checked and destroyed the damage it will bring upon the farmers is incalculable. Sections in the northern part of the State particularly are so poisoned by this weed that land values are becoming sensibly affected and the returns from farm labor materially diminished. The existence of the grass has become an important factor not only in the selling price of the land, but in negotiating loans upon it. In some individual cases distinct financial ruin has been brought upon industrious and enterprising citizens. So general is the growth and dispersion of this pest that in places cases are known where land owners have deliberately planted the grass because it has so encroached upon them without hope of repression or destruction that the inevitable was discounted and accepted. It appears that means are known and in use by which the grass can be destroyed, and thus immeasurable loss to the State averted if its subsequent propagation can be prevented. This may be done by a law vigorously enforced, under which the importation and sale of the grass in hay form is forbidden, and all individuals and corporations owning, leasing or controlling realty in this State are prohibited from allowing the grass to grow to seed. No more important subject than this will claim your attention at this session. The injury sought to be avoided is so general and alarming that immediate and effective action is imperative. Not only by party, but by constitutional and patriotic duty, we are bound to support liberally the public free schools of the State, and we are especially enjoined to husband the school fund so that the schools may be maintained for at least six months of the year. The present rate of taxation for this purpose should be maintained, and wherever any portion of the available school fund is devoted to purposes other than the support and maintenance of the schools within the meaning of the Constitution it should cease. Whether any portion of this fund is being diverted depends upon the proper construction of some constitutional provisions. It is provided, among other things, by section 3, article 7, of that instrument, that one-fourth of the revenue derived from

State occupation taxes and a poll tax of \$1 on every male inhabitant between the ages of 21 and 60 shall be set apart annually for the support of the public schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such amount not to exceed 20 cents on the \$100 valuation, as with the available school fund raised from all other sources, will be sufficient "to maintain and support" the public free schools for a period of not less than six months in the year. By the same section it is declared that the Legislature may also provide for the formation of school districts within all or any of the counties of this State by general or special law, and may authorize an additional annual ad valorem tax to be levied and collected within such school district for the "further maintenance of the public free schools and the erection of school buildings therein." Section 5 of the same article, after defining permanent and available fund, declares that the available fund shall be applied annually to the "support" of the public free schools, and that no law shall ever be enacted appropriating any part of the available school fund to any other purpose whatever. From these provisions of the Constitution it will be seen that except for the support and maintenance of the schools the Legislature is not authorized to appropriate any part of the available fund. It may be that in consequence of the provision of section 3 that local taxation may be resorted to for the erection of school buildings, as well as from the history and general context of these several provisions, their proper construction is that the available school fund can not be used for the erection of school buildings or the purchase of furniture or school apparatus or the support of the Department of Public Education. The construction turns upon whether support and maintenance of the schools was intended by the framers of the Constitution to embrace these purposes. With the exception of an act of 1866, which seems not to have been enforced, all laws enacted until recently declared that school buildings should be provided for entirely by local taxation. Notwithstanding these matters, it is provided by article 3884 of the Revised Statutes of 1895, brought forward from the act of 1879, that \$14,000 annually shall be set apart by the Comptroller out of the available school fund for the benefit of the Sam Houston Normal Institute,

and by article 3984 of the Revised Statutes of 1895, brought forward from the act of 1893, school trustees may use 25 per cent annually of the school fund of the district for a period of five years for the building or repair of school houses or the purchase of furniture. It is believed there is no warrant in the Constitution for the appropriation of any part of the available public free school fund for the support of the Sam Houston Normal Institute. The question whether any part of the available fund may be used for the purchase of school houses, furniture or apparatus, and, perhaps, for the support of the Department of Education, is now pending in the Court of Civil Appeals at Austin, the question having been raised at my request in a case from McCulloch county, and no opinion need be expressed upon it. It may be that this question will be determined by the higher courts before the Legislature adjourns, and if so there will be no difficulty in deciding what should be done. Should it finally be held that any part of the available fund may be used for the purchase of school houses, furniture or apparatus, for manifest reasons the amount which may be so used ought to be reduced from 25 to 10 per cent, so that the great bulk of the fund shall be used for the payment of teachers, the primary and important consideration in maintaining an efficient system of schools, and not expended in the purchase of school houses and furniture, or wasted in so-called school apparatus, which are often merely money-getting devices of enterprising manufacturers and publishers. This matter has been in confusion for years, fluctuating with different officials, but it should now be finally settled so that this fund shall be devoted sacredly to constitutional purposes only, and if so no reason exists why the school term should not reach six months with the present rate of taxation. By the common law a debtor in failing circumstances may dispose of his property for the use and benefit of his creditors generally, or may give a preference in payment to one creditor above another or to one class of creditors above another class. In this State debtors may not prefer creditors in a statutory assignment, but, unless they be corporations, may do so by payment, by sale of property, by chattel mortgage or by trust deed. Preferences, except for wages, taxes, and the like are not allowed by assignment, or it is believed by any other

method, in Arizona, California, Colorado, Delaware, District of Columbia, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington, West Virginia, Wisconsin, or Wyoming. In Alabama, Arkansas, Connecticut, Georgia, Indian Territory, Indiana, Massachusetts, Mississippi, Ohio, Pennsylvania, Utah, and Virginia preferences in some form are legal, and in New York they may be made for wages and to the amount of one-third the estate. In Kentucky debts due as executor, guardian, administrator, or trustee, under will duly recorded have preference, and in Maryland preferences are permitted for taxes, wages, and lien claims which have been recorded at least three months. The right to prefer creditors is claimed by its advocates upon the ground that the debtor should be permitted to do as he pleases with his own, and that in special cases he should be allowed to favor those who have befriended him when in distress. It should be remembered that at the bar of equity his title to the property is not absolute, but is qualified by his duty to discharge his debts, and the plea of favoritism can not be admitted, though persuasive, because all creditors, to the extent of their claims, have done the debtor the same service, dollar for dollar in the loan of money or extension of credit. Opponents of this practice stand on more logical and higher ground. What property the debtor may possess is distinctly due to all his creditors. In the exact proportion of their debt they have made it possible for him to acquire the estate, and upon every principle of justice they should share equally in its distribution. In mercantile transactions often property, unpaid for and upon which a creditor has an equitable and moral lien for the purchase money, is transferred in preference to another creditor entitled to no greater consideration. Disguise it in whatever sophistry, in the sphere of conscience this is despoiling one to satisfy another, and the rule which permits it should not be tolerated. This policy not only offers opportunities for gross injustice, but it checks confidence in commercial dealing and promotes the most shameless frauds. Justice, financial integrity, faith in mercantile affairs,

and the suppression of dishonesty and fraud require that preferences be insolvents, whether by assignment, sale, deed, mortgage, collusive attachment, or otherwise should be prohibited except for taxes, wages for six months past, and debts due as executor, guardian, or administrator. With effective legislation on the subject and a voluntary national bankrupt law some of the unrest in commercial circles will be removed and thousands of deserving citizens released from the implacable bondage of debt and their energies again employed in the upbuilding of the State.

Estimates, Revenue, and Taxation.

Two years ago there was no money in the treasury to the account of general revenue and there was a registered and estimated deficit in that fund amounting to \$789,000. There is now in the treasury to this account \$175,000 and the registered and estimated deficiency is only \$18,049.60, making a difference in favor of the present condition of the treasury of \$945,950.40. The Comptroller estimates the receipts from all sources under present laws and rate of taxation for the next two years at \$4,631,000. Estimates for appropriations for the two years have been submitted by heads of departments and State institutions which aggregate \$5,536,644.32, and if to this be added \$140,000 as the probable cost of this session of the Legislature for per diem, mileage and contingent expenses, the total requisitions will be \$5,676,644.32, or \$1,323,908.02 greater than the appropriation for the current two years and \$1,045,644.32 greater than the estimated receipts from all sources for the next two years. As compared with the appropriations for the current two years the following are the largest items of increase in requisitions made:

Department of Education (increase in salaries, printing, etc.)	\$4,380.00
Public printing (for publishing constitutional amendments, etc.)	8,060.00
Comptroller's office (increase in salaries)	10,100.00
Courts of Civil Appeals (stenographers and library at Galveston) about	14,000.00
Agricultural Department (increase in salaries, and \$10,000 for Geological Survey) ..	19,650.00
Prairie View Normal School (for new building)	24,950.00

Orphans' Home (\$20,000 for new building, \$6000 for maintenance)	32,420.00
Deaf and Dumb Asylum (\$15,000 for new building)	32,552.00
Colored Deaf and Dumb Asylum (\$33,000 for new building)	36,430.00
Adjutant General's office (increase asked for Encampment)	41,150.00
Confederate Home (\$18,463 for new buildings, \$20,000 increased cost of maintenance)	43,973.00
North Texas Lunatic Asylum (\$10,000 new building, \$20,000 increased cost)	49,450.00
Medical Branch of University (\$50,000 for new building, the remainder for current expenses)	66,333.32
Agricultural and Mechanical College (for new buildings) ..	107,500.00
State Lunatic Asylum (for new building)	109,205.00
Southwestern Lunatic Asylum (\$170,000 for new building, \$53,000 for increased cost of maintenance)	232,160.00
State University (of this increase, \$230,000 is for new buildings, the remainder for repairs, libraries, equipments, and for current expenses)	333,201.60

While entitled to the utmost respect, requisitions made should excite no special alarm that unless granted the State will suffer irreparable injury. The total requisitions for the current two years was \$5,251,085.40, yet the government and institutions have been admirably conducted on about \$4,000,000. Aside from any other objection, all the appropriations now asked could not be met if the rate of taxation were put to the limit of the Constitution, and, consequently, any thought of doing so should be promptly dismissed. This Legislature, moreover, is commissioned by the people to continue economy in the expenditure of public money and reduce expenses wherever practicable, and should resolutely pursue that policy. It is true Texas is growing toward a destiny that passes our vision, and public needs will naturally and inevitably enlarge with this progress, but we are in the midst of industrial stagnation and financial distress, which press heavily upon the people. Every

citizen is constrained to curtail expenses in his private affairs, and for the Legislature to add to the burden by unnecessary expenditure or increase in public charges would be both indefensible and inexcusable. Deeply impressed with these considerations, it is submitted that in dealing with this subject these general rules should be observed: (1) as the government has been well administered on the appropriations for the current two years, they should be taken as a basis and every practicable reduction of expenses made; (2) no salaries should be increased or new offices created; (3) no increase of appropriations for any department or institution should be allowed except it be indispensable at this time, and (4) the appropriations should be held strictly within the limit of receipts, and as the State is out of debt the ad valorem rate of taxation should under no conditions be increased. The total appropriations for the current two years was \$4,352,736.30. Reductions in appropriations may probably be made in many places upon careful investigation, but among larger items the following should be made for the two years: \$5000 for pensions and \$15,000 for relief of liquor dealers which will not be needed, \$20,000 by omitting appropriation for special district judges and requiring the regular judges to exchange when disqualified, as provided by the Constitution; \$40,000 by repealing the law allowing fees in examining trials; \$70,000 by reapportioning the judicial districts and reducing them to forty; \$100,000 by prohibiting the attachment of witnesses from other counties before grand juries except in capital cases and \$150,000 by reducing the fees of district attorneys and county officers, aggregating \$400,000. With these reductions from the last total biennial appropriations there would remain \$3,952,736.30, and with estimated receipts \$4,631,000 would leave an excess of receipts of \$678,263.70. If no reduction be made the excess would only be \$238,261.70, which would not keep the State on a cash basis, because in the operation of the laws revenue from taxes is received at the treasury only during four or five months, while disbursements amount to about \$200,000 monthly. To avoid registering warrants, which usually necessitates discount by the holders and works discredit to the State, there should be at least \$500,000 in the treasury at the beginning of the year. But in addition to this it must be borne in mind that

appropriations over those of the current two years and to which the Legislature is pledged seem necessary for the Confederate Home, insane Asylums, University and the Agricultural and Mechanical College. The increased amount asked for the Home should be allowed ungrudgingly, for the time should never come when disabled Confederate heroes entitled to the generosity and gratitude of the State should suffer for the comforts of life. By enlarging the San Antonio asylum to the capacity of either of the others and guarding against crowding them with persons not entitled to admission, such as non-residents, imbeciles, idiots and epileptics, all the insane can probably be cared for. State pride, remembrance of the aspirations of the fathers, and sincere appreciation of the great work in which these schools are engaged, suggest that any reasonable requisition for the support and necessary expansion of the University and Agricultural and Mechanical College should be granted. By section 14, article 7, of the Constitution, the Legislature is prohibited from appropriating general revenue for the erection of buildings of the University, and it is apparent that other increased demands made by it as well as some by the asylums and Agricultural and Mechanical College are impracticable at this time. The requisitions of other departments and institutions should be carefully scrutinized, and only allowed where proper and necessary. Large reductions in expenditures may be made, as pointed out, and in the consideration of demands for increased appropriations no better general rule can be adopted than to allow none except to the extent of reductions in expenses, and to divide these fairly among the most needy and deserving. The work of the Legislature on this subject is embarrassing and difficult. Economy will be decried and importunities come from many quarters, but you will deserve well of your country if you stand to your public pledges and the countless toilers who believe in a simple and frugal government.

Congratulating you upon the outlook for a short, harmonious and useful session, I welcome you cordially to the capital; and while the foregoing recommendations are submitted with candor and emphasis, it is done with becoming deference to your judgment and a sincere purpose to co-operate with you in every measure you may devise tending to the public welfare.

C. A. CULBERSON.

APPENDIX.

Statement of money paid from funds subject to the Governor's orders, with vouchers, from January 15, 1895, to January 4, 1897:

For salary of Governor.....	\$7,833	34
For salary of private secretary	3,550	07
For salary of stenographic clerk	2,387	50
For salary of porter	830	00
For salary of State Revenue Agent	3,549	99
For traveling and other expenses of State Revenue Agent	592	80
For payment of rewards, etc.	9,860	97
For books, stationery, etc. ..	285	85
For freight, postage, etc.	868	71
For ice for office	37	26
For office furniture	88	75
For salary of pardon advisers	1,950	00
For payment special counsel in Greer county case	3,532	40
For contingent	14	03
For Governor's mansion, furniture and repairs	2,424	31
For gardener, housekeeper, labor, etc.	602	50
For water and ice for mansion	299	54
For fuel and lights	673	06
For contingent	274	60

(Senator Atlee in the chair.)

By Senator Woods:

Resolved, That all professional lobbyists be excluded from the Senate floor during the session of the Twenty-fifth Legislature. A professional lobbyist, in the meaning of this resolution is one in the employ of any person, firm, or corporation seeking to prejudice, bias, or in any way influence legislation, and does not apply to gentlemen invited to appear before any committee by the chairman of such committee.

Senator Bowser moved to adopt the resolution.

Senator Lewis moved that the resolution be referred to Judiciary Committee No. 2.

Senator Bowser moved to table the motion to refer.

Tabled by the following vote:

Yeas—16.

Atlee.	Stafford.
Boren.	Stone.
Bowser.	Terrell.
Colquitt.	Tillett.
Darwin.	Wayland.
Morris.	Woods.
Presler.	Yantis.
Ross.	Yett.

Nays—13.

Bailey.	Kerr.
Beall.	Lewis.
Burns.	Linn of Wharton.
Dibrell.	Neal.
Goss.	Rogers.
Gough.	Turney.
Harrison.	

Absent.

Greer.

Excused.

Linn of Victoria.

(Lieutenant Governor Jester in the chair.)

Senator Lewis moved to postpone further consideration of the resolution until to-morrow, and that same be printed in the Journal.

At the request of Senator Colquitt the resolution was read a third time.

Postponed by the following vote:

Yeas—20.

Atlee.	Burns.
Bailey.	Darwin.
Beall.	Dibrell.
Boren.	Goss.
Gough.	Rogers.
Harrison.	Ross.
Kerr.	Stone.
Lewis.	Turney.
Linn of Wharton.	Wayland.
Neal.	Yett.

Nays—9.

Bowser.	Terrell.
Colquitt.	Tillett.
Morris.	Woods.
Presler.	Yantis.
Stafford.	

Absent.

Greer.

Excused.

Linn of Victoria.

By Senator Bailey:

Resolved, That each member of the Senate be allowed to subscribe for five daily newspapers, and that the same be paid out of the contingent fund of the Senate.

By Senator Rogers:

Amend by adding "or weekly."

Senator Bailey accepted the amendment.

Senator Colquitt moved to table the resolution as amended.

Lost by the following vote:

Yeas—14.

Boren.	Stafford.
Colquitt.	Stone.
Darwin.	Terrell.
Gough.	Tillett.
Lewis.	Turney.
Morris.	Woods.
Ross.	Yantis.

Nays—15.

Atlee.	Kerr.
Bailey.	Linn of Wharton.
Beall.	Neal.
Bowser.	Presler.
Burns.	Rogers.
Dibrell.	Wayland.
Goss.	Yett.
Harrison.	

Absent.

Greer.

Excused.

Linn of Victoria.

Senator Pressler offered the following substitute:

Resolved, that each Senator be allowed to subscribe for twenty daily or weekly papers, to be paid for out of the contingent fund of the Senate.

Senator Gough moved to table the substitute.

Tabled.

The resolution was then lost by the following vote:

Yeas—14.

Atlee.	Harrison.
Bailey.	Linn of Wharton.
Beall.	Morriss.
Bowser.	Neal.
Burns.	Presler.
Dibrell.	Rogers.
Goss.	Wayland.

Nays—15.

Boren.	Stone.
Colquitt.	Terrell.
Darwin.	Tillett.
Gough.	Turney.
Kerr.	Woods.
Lewis.	Yantis.
Ross.	Yett.
Stafford.	

Absent.

Greer.

Excused.

Linn of Victoria.

By Senator Stafford:

Inasmuch as the Governor's message will appear in to-morrow's Journal, therefore be it

Resolved, That the Public Printer be instructed to print 750 copies of same. Lost.

The Chair announced that the oath of office required by the Constitution had been duly administered to Senator-elect E. D. Linn of Victoria by Sam B. Dabney, Notary Public of Victoria county, Texas, a certified copy of which was laid before the Senate.

Whereupon, on motion of Senator Linn of Wharton, he was excused from attendance upon the Senate for

five days dating from the beginning of the Senate, on account of sickness.

On motion of Senator Goss, the Senate adjourned to 10 a. m. to-morrow.

FOURTH DAY.

Senate Chamber,

Austin, Tex., Friday, Jan. 15.

Senate met pursuant to adjournment.

Lieutenant-Governor Jester in the chair.

Roll called: Quorum present, the following Senators answering to their names:

Bailey.	Neal.
Beall.	Presler.
Bowser.	Rogers.
Burns.	Ross.
Colquitt.	Stafford.
Darwin.	Stone.
Dibrell.	Terrell.
Goss.	Tillett.
Gough.	Turney.
Harrison.	Wayland.
Kerr.	Woods.
Lewis.	Yantis.
Linn of Wharton.	Yett.
Morriss.	

Absent.

Atlee. Greer.

Excused.

Boren. Linn of Victoria.

Prayer by the Chaplain, Rev. F. S. Jackson.

Pending the reading of the Journal of yesterday,

On motion of Senator Woods, the same was dispensed with.

BILLS AND RESOLUTIONS.

By Senator Rogers:

Senate Concurrent Resolution No. 1: Whereas, The Hon. William Jennings Bryan of Nebraska, the brilliant orator, grand statesman and matchless tribune of the people, at the last election Democratic candidate for President of the United States, contemplates an early visit to this State; therefore, be it

Resolved by the Senate, the House of Representatives concurring, That in the name of all the people the Legislature of Texas welcomes the distinguished gentleman to our grand State, and voice the wish that his stay among us may be prolonged and agreeable.

Be it further resolved, That a cordial invitation is hereby extended to Hon. W. J. Bryan to visit the capital of the State, as the guest of the Legislature